

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

Call to order and flag salute by Mayor Serio at 1:00 PM

Council Members Present: Langan, Bunting, Smallwood, Weistling, Carmean, Serio

Council Members Absent: Tingle (Excused)

Others Present: Town Manager Abbott

Approve minutes of Special Meeting of February 24, 2011

Motion to approve – Council Member Carmean

Second – Council Member Smallwood

Discussion – None

Vote: 6-0

Minutes Approved

Public Safety Building

Council Members Langan and Weistling advised that they plan to advertize for bids on April 13, 2011. Mr. Langan noted that every contingency has been planned for including all fees, constructions costs, etc. The RFP will include bidding “alternates;” e.g. a metal roof with an alternate shingled roof; with/without an elevator tower etc. Bids should be returned on or about June 1, 2011. The review of bids will require more time than normal due to the request for alternates but this will give a better picture of what is available. Mayor Serio advised that the original Public Safety Building Committee will be doing the review. Todd Smallwood noted that the basketball court and equipment was removed prematurely in anticipation of an earlier build date; it should be replaced for this summer.

First Reading Chapter 160-5A (Use Regulations) Farmers Market – Council Member Weistling

Motion to accept first reading: Council Member Weistling

Second: Council Member Langan

DISCUSSION

Council Member Weistling advised that the Charter and Ordinance Committee in concert with the Town Solicitor has proposed the change. Item 3 – Vendors- has been changed to allow the sale of merchandise which the vendor has purchased from other members of the Fenwick Island Farmers Market. As a result of a discussion of how many vendors may utilize a vacant lot, it was determined that a vendor may lease a 100x100 lot for the sale of in-season local produce/products only.

Motion to amend the proposed first reading: Council Member Weistling

Second: Council Member Carmean

DISCUSSION

The reading was amended to show (4) all vendors must receive a business license from the Town and (5) to strike the words “from time to time.” A revised First Reading is attached to these minutes.

Vote: (6-0)

First Reading Chapter 160-5A (Use Regulations) – Farmers Market passed.

Police Extra Duty Policy – Council Member Carmean

Motion to approve the changes (copy attached): Council Member Carmean

Second: Council Member Bunting

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

DISCUSSION

Council Member Carmean advised that the policy revision has been reviewed by Council Members Carmean and Smallwood, Chief of Police Boyden and the Town Solicitor. Mayor Serio advised that the Personnel Policy Manual change may be approved today but that a resolution must be placed before Council after proper posting and notification to staff.

Amended Motion to follow proper procedure for amending the Personnel Policy Manual as it relates to the Police Extra Duty Policy: Council Member Carmean

DISCUSSION

Council Member Weistling asked clarification as to when the policy needs to be in place; Council Member Carmean advised that there is no time requirement.

Vote: (6-0) to accept the Personnel Policy Manual change pending proper notification and presentation of Resolution at a Regular Council meeting.

Police Extra Duty Policy – Department Directives – Council Member Carmean

A Department Directive detailing Police Extra Duty Policy is different in that it outlines policy/procedure for extra duty as it relates to those activities sanctioned by the Fenwick Island Police Department such as DUI checkpoints and house moving. Mayor Serio advised that these are activities paid through the town and not by an outside employer. All fees/charges, etc will be invoiced to the Town and based on a set fee schedule. Mayor Serio noted that this directive makes the use of FIPD equipment available for official business only and sets a pay policy for officers using extra duty.

Motion to approve the Extra Duty Policy Department Directive (copy attached): Council Member Langan Second; Council Member Bunting

DISCUSSION

Council Member Langan questioned the use of vehicles; Council Member Carmean advised that the officer may not use FIPD equipment during the course of his/her outside employment. Council Member Weistling asked the difference in pay schedule for 3A) extra duty pay for court appearances and 4D) extra duty pay for events. Mayor Serio advised that in all cases the Extra Duty Pay will be at overtime rates.

Vote: (6-0) to approve the Department Directive

Residential Trash Contract – Town Manager Abbott

Town Manager Abbott supplied Council with an overview of all bids received. Apparent low bid is Chesapeake Waste Industries. All references and required submissions check out and have been reviewed by the Town Solicitor.

Motion to award the Residential Trash Contract to Chesapeake Waste Industries: Council Member Carmean Second: Council Member Langan

DISCUSSION

Council Member Langan asked for the end date for Allied Waste's curbside recycling contract; Mr. Abbott advised that contract begins its third year in September 2011. ~~Council Member Carmean~~ It was stated that the Chesapeake Waste contract will begin on May 1, 2011. Council Member Bunting asked if their trucks were outfitted with a lift; Town Manager responded that he did not know.

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

Vote: (6-0) to award the contract to Chesapeake Waste Industries.

Yard Waste Contract – Town Manager Abbott

Mr. Abbott stated that he has been able to contact vendors regarding pick up of yard waste and that Blue Hen can provide the service. Since the residential trash service bid is lower than the current contract, extra funds are available to provide this service without additional cost to the Town. Blue Hen will offer a 12-month billing cycle and eight (8) pick ups for \$6810. The Town can provide an additional pick ups if it chooses at @\$2550 each.

Motion to accept the Blue Hen proposal for curbside recycling of yard waste for pick up eight (8) times a year:

Council Member Carmean

Second: Council Member Smallwood

DISCUSSION

Mayor Serio suggested pickup in March, April (2) and May; Council Member Smallwood suggested an additional pick up in November for leaves; Council Member Carmean suggested December/January for picking up holiday decorations. Other pick up times were discussed; no firm schedule was decided. Council Member Weistling asked if there are special containers for yard waste and if they will need to be purchased from Blue Hen; Town Manager will discuss this with the contractor. He added that there are funds available in next year's budget for a more aggressive pick up schedule.

Mayor Serio questioned where to store the yard waste in between pickups; property owners must be made aware that waste cannot be left out if they miss a pick up. She asked if Charter and Ordinance will need to address the issue. Council Member Weistling agreed that a minor change will need to be made. Council Member Smallwood advised an aggressive advertizing campaign to begin at the annual FISH dinner on 4/9/11 and to continue by way of the town's web site, FI Newsletter and possible insert in the parking pass distribution.

Vote: (6-0) to approve awarding a 2-year contract to Blue Hen for yard waste pick up.

Solar Panel Installation – Town Manager Abbott

Town Manager Abbott advised that funds are available from the HVAC Grant to cover the cost of hiring an engineering firm to assist the town in administering the project. He introduced Mr. Steven Lewandowski from CABA Associates Inc, a consulting engineering firm. Mr. Lewandowski addressed Council stating that his firm can provide contract preparation, construction administration and observation and complete all required filing mandated by the Davis-Bacon Act in regards to grant administration. Their presence on the project will free up town staff.

DISCUSSION

Council Member Weistling asked if the firm has experience with solar projects; Mr. Lewandowski said they do not but do have experience with power generation systems. Council Member Carmean expressed surprise that CNC Solar was not providing assistance. Mayor Serio suggesting tabling further discussion until the Council has an opportunity to meet in Executive Session.

Review of Capital Budget Year-to-Date – Town Manager Abbott

Mr. Abbott advised that the chart (included with these minutes) shows budgeted (approved) capital items. In response to a question from Mayor Serio, Mr. Abbott said that ≈\$25,000 remains that can be used for other purposes.

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

Re-allocation of current fiscal year funds from Cannon Street Park to Mobi-mat purchase (with grant) – Town Manager Abbott

Town Manager Abbott noted that the \$25,000 remaining funds could be used to purchase mobi-mats at a cost of ≈\$21,000. The Town is the recipient of a grant from The Delaware Division of Parks and Recreation for the installation of mobi-mats.

DISCUSSION

Mayo Serio asked Council to consider if they wanted to use these funds toward the purchase of mobi-mats and if they wanted to authorize Town Manager Abbott to request reimbursement against the grant to pay for the purchase. If the purchase price is \$40,000 and the grant is a 50/50 share then the Town will pay \$20,000. Council Member Smallwood asked how the cost had escalated to \$21,000; his understanding was that the Town would purchase one mat. Mayor Serio noted that the grant is 50/50 regardless of the number of mats purchased. Mayor Serio believes that the Town will need to outfit at least two streets for comparison and suggested Atlantic and Dagsboro. Council Member Carmean advised that she was not convinced that more than one mat was needed in order to get information on how they handle.

Motion to postpone moving ahead with the purchase of mobi-mats at this time: Council Member Carmean
Second: Council Member Smallwood

DISCUSSION

Council Member Weistling suggested that the motion should reflect whether Council wants to move ahead with the project or not.

Amended Motion to vote down the purchase of mobi-mats: Council Member Carmean
Second: Council Member Smallwood

DISCUSSION

Council Member Weistling asked what will happen to the excess funds allowed by the grant if the Town decides to do just one street. Town Manager Abbott advised he did not know the answer. Regardless of whether the Town commits to the full \$21,000 or to less than that amount, the cost to the Town remains 50/50 on the grant award. Council Members Smallwood and Carmean believe that this is a lot of money, that beach access is good now, that Council has been prudent with spending and that they want more stress placed on the Public Safety Building project. Council Member Carmean re-stated that she is not opposed to them but objects to the purchase of three (3) mats @ \$21,000. She wants to try one mat for now; Mayor Serio suggested using the grant money that is available and to purchase at least two. Council Member Bunting stated that he is inclined to favor installation on more than one crossover and that they should be different lengths. He believes that they help to stabilize the sand making crossing over easier. Mayor Serio advised that this is not a handicapped access project but rather a test to determine if they do, in fact, stabilize the crossover and make it easier to walk across. She favors installation on non-handicapped access dune crossovers; this will make it easier for families and others who do not have extreme mobility issues to traverse the crossovers.

Council Member Smallwood advised that the most used crossovers are at Atlantic, Dagsboro and Farmington Streets. Council Member Langan believes that trying one mat might be useful but expressed concern about rolling them up once beach replenishment begins. Town Manager Abbott advised that they are sold in standard lengths and can be cut to size. Discussion followed on the number of mats to purchase and where to place them.

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

Vote on the motion to vote down the purchase of mobi-mats (0-6)

A vote FOR this motion would halt the project; a vote AGAINST this motion would indicate willingness to continue with the project.

Motion to try two (2) mobi-mats for this summer season: Council Member Langan
Second; Council Member Weistling

DISCUSSION

After Council Member Bunting questioned on which streets to place the mats, Council Member Langan withdrew his motion.

Motion to consider purchasing an unspecified number of mobi-mats utilizing grant funds available: Council Member Carmean

Second: Council Member Bunting

DISCUSSION – None

Vote: (6-0) Motion to consider the purchase passed

Motion to purchase no more than one mobi-mat: Council Member Carmean

Second: Council Member Smallwood.

DISCUSSION

Council Members Carmean and Smallwood are content with one mat; Mayor Serio advised that she doesn't believe a proper comparison can be made using just one mat and suggested at least two.

Vote: (3-3) Motion failed

Mayor Serio advised that she was tabling the matter and directed Town Manager Abbott to bring back to Council some measurements and cost figures for various streets. Council will discuss at its next meeting.

Motion to adjourn to Executive Session to consider Personnel and/or Legal Matters: Council Member Bunting

Second: Council Member Smallwood

Vote: (6-0)

Meeting entered Executive Session at 2:44 PM.

Council returned to Public Session at 3:05 PM.

There being no action from the Executive Session motion to adjourn: Council Member Carmean

Second: Council Member Langan

Vote: (6-0)

Meeting adjourned at 3:05PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk

In the absence of Diane Tingle, Council Secretary

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

Chapter 160 – Zoning

Existing:

Chapter 160-5 A (Use Regulations):

(35) *Market, food (except live poultry).*

Proposed:

(35) *Farmers Market.*

a) Definitions.

1. *Fenwick Island Farmers' Market – The nonprofit organization consisting of community volunteers and local growers, which has been sanctioned by the Town Council of the Town of Fenwick Island and the Delaware Department of Agriculture.*
2. *Farmers Market – An open outdoor market setting whereat fresh agricultural items, horticultural items, baked goods, seafood and/or other fresh food items, that have been locally grown, produced or processed by vendors who are members of the Fenwick Island Farmers' Market, may be sold.*
3. *Vendors – Persons or entities selling only agricultural, horticultural, baked goods, seafood and/or other fresh food items that they themselves have grown, produced or processed. Individual vendors operating outside the established hours of the Fenwick Island Farmers' Market will be permitted to sell local items purchased from members of the Fenwick Island Farmers' Market.*
4. *All vendors must be members of the Fenwick Island Farmers' Market. All vendors must also receive a business license from the Town of Fenwick Island to operate individually outside the established hours of the Fenwick Island Farmers' Market. Proof of membership in the Fenwick Island Farmers' Market must be submitted at the time of application for a business license. No license fee shall be charged for members of the Fenwick Island Farmers' Market.*
5. *Rules and Regulations of the Fenwick Island Farmers' Market – The rules and regulations imposed by the Fenwick Island Farmers' Market nonprofit organization.*

b) Permitted Locations. Farmers Markets will be only permitted on vacant, unimproved lots, which shall be at least 100' x 100' in size (either individually or combined), in the Commercial Zone in Town.

c) Regulations.

1. *If a vendor is not the record owner of the vacant, unimproved lot where the Farmers Market will be located, the vendor must submit to the Town Manager at the time of licensing written proof that the record owner consents to the operation of a Farmers Market on the vacant, unimproved lot in question. If a vendor is the record owner of the vacant, unimproved lot in question, then proof of ownership must be submitted to the Town Manager at the time of licensing.*
2. *Vendors shall comply with all local, county, state and other health laws, rules or regulations pertaining to their operation.*
3. *Vendors must provide for the removal of all waste generated by or in connection with the operation of the Farmers Market. Such waste removal shall include, but not be limited to, the removal of all recyclable materials for the designated purpose of recycling.*
4. *Farmers Markets shall be operated on a seasonal basis only, from May 1 through October 31 of any calendar year.*
5. *All meat, seafood, dairy and baked products sold at a Farmers Market must meet the safety and quality control requirements of the Rules and Regulations of the Fenwick Island Farmers' Market.*
6. *No live animals of any kind, except seafood, may be sold, kept or slaughtered at a Farmers Market.*

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

4-8.1 Outside Employment – Fenwick Island Police Department

A. Policy

Guidelines for the members of the Fenwick Island Police Department to follow when working any outside employment in or out of the Town limits are set forth below:

- 1) Outside employment is not permitted unless the Chief of Police has issued official approval after reviewing the written request;
- 2) If the outside employment involves potential or actual law enforcement duties, no issued Fenwick Island Police Department equipment is to be worn or used by that officer;
- 3) Outside employment shall not reflect negatively on the officer's reputation or that of the Fenwick Island Police Department;
- 4) Any full time member of the Fenwick Island Police Department whose employment duty status is temporarily part time for any official reason is not permitted to engage in outside employment;
- 5) The outside employment shall not be allowed to interfere with the officer's full time responsibilities to the Fenwick Island Police Department.

B. Definitions

- 1) *Outside Employment:* Any employment that is outside the officer's regular duty shift for the Fenwick Island Police Department.
- 2) *Probationary Status:* The first twelve months of an officer's Fenwick Island Police Department employment or any time period established due to an officer's disciplinary status.

C. Procedures

- 1) It will be the responsibility of any officer seeking to engage in outside employment to provide a written request to the Chief of Police. Any such request must be submitted in advance of the proposed outside employment and shall provide a detailed description of the proposed outside employment.
- 2) After reviewing the officer's written request to pursue outside employment, the Chief of Police will determine whether to approve or disapprove the request.
- 3) No officer on probationary status shall be permitted to engage in any type of outside employment.
- 4) It shall be the responsibility of the Chief of Police or his/her designee to oversee adherence to the above policy, application process, or any other matters that may arise or be brought to the Chief's attention as a result of the outside employment of any department members.

4-8.1 Outside Employment – Fenwick Island Police Department (continued)

D. Conflicts

In the event of any conflict between the provisions set forth herein the Secondary Employment policy, extra-duty pay job policy, or other applicable policy for the Fenwick Island Police Department, the provisions of the applicable Fenwick Island Police Department Policy shall control.

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

FENWICK ISLAND POLICE DEPARTMENT	
Department Directive	
Subject:	Number:
Approved:	Effective Date:
Rescinded:	

This policy consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

1. Purpose

This policy sets forth guidelines for the Fenwick Island Police Department to follow when working any extra-duty pay jobs.

2. Policy

- A. The Fenwick Island Police Department will, on occasion, provide sworn officers the opportunity to work extra-duty pay jobs. These job opportunities shall only be permitted after review and official approval by the Chief of Police.
- B. It shall be the policy of the Fenwick Island Police Department to charge a customer, according to a set rate schedule that will be adjusted yearly, for work requests involving extra-duty pay jobs.
- C. All fees imposed for extra-duty pay jobs and use of police vehicles shall be listed in an invoice issued to the requesting police agency or other customer by the Town of Fenwick Island. The requesting police agency or other customer shall submit all invoice payments directly to the Town of Fenwick Island. The Town will then be responsible for paying the officer(s) and factoring in the required payroll deductions.

3. Definitions

- A. *Extra-Duty Pay Job:* An assignment that falls outside of the sworn officer's regular duty shift on a regular day off, but not to include court appearances.
- B. *Sworn Officer:* A person who is granted those general police officer powers prescribed by the Federal or State Constitutions, State statute, or ordinance in the applicable jurisdiction, including those persons who possess authority to make a full-custody arrest for limited or specific violations of law within the same jurisdiction.
- C. *Set Rate Schedule:* The pay scale and schedule of costs (if any) established annually by the Fenwick Island Town Council for extra-duty pay jobs.

4. Procedures

- A. The Chief of Police shall be responsible for posting and scheduling any opportunities for extra-duty pay jobs.

B. Any sworn officer who works an extra-duty pay job must complete an overtime sheet upon completion of the duty and provide the Chief of Police with a copy thereof for the Town's records.

C. All sworn officers must be familiar with and adhere to the guidelines and regulations set forth by the requesting police agency or other customer.

D. Twenty-four hour advance notice must be submitted in writing to the Fenwick Island Police Department in order to cancel an event. Should such written notice of a cancellation not be timely received by the Fenwick Island Police Department, the requesting police agency or other customer will continue to be liable for the scheduled fees and costs.

E. Any sworn officer who signs up for an extra-duty pay job and fails to appear for said job as scheduled will be prohibited from further participation in extra-duty pay jobs for a period of three months.

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

CAPITAL BUDGET AUGUST 1, 2010 – JANUARY 31, 2011 MID-YEAR REVIEW

Capital Expenses are noted at the bottom of the Budget Report for the General Fund operating account. These expenses are further detailed as General Government Capital, Police Capital and Municipal Streets Capital.

Please note that the \$215,000 reimbursement for the land purchase (DTF grant) in the last fiscal year was received in the current fiscal year. When the funds were moved to the Realty Transfer Tax fund, this transaction shows up as an expense in the current year's General Government Capital Expense "line". This exaggerates the actual capital expenditures this year by that amount.

Project	Budgeted	+/-	Notes
Public Safety Building A&E Study	\$7,900	\$8,048.35 \$4,520.00	French & Ryan -- some additional items John Hynes -- add'l authorization for geotech study
Paving projects	\$100,000 (net)	\$105,334.46 \$19,063.19 -\$1,500 -\$28,345	Jerry's Paving Kercher Engineering Rep. Hocker grant Hocker & Bunting grant balance pending
Cannon Street park	\$25,000	None	
Pedestrian Improvements	\$9,000	\$3,885.05	Landmark Engineering -- some additional items

The notation "some additional items" includes contract-authorized payment for copies and other sundry expenses.

Review:

- 1) The expenses in excess of the budgeted amount for the Public Safety Building were authorized in a subsequent Special Council Meeting for a geotech study of soil conditions at two proposed sites.
- 2) The reimbursement grant request has been filed with DelDOT. When received, the net expense will be \$94,552.65. When the final drainage repair on Georgetown Street is completed, the net expense will still be under the \$100,000 target.
- 3) The pedestrian improvement project study may qualify for a reimbursement grant.
- 4) Additional expenditures for beach access mats, etc. have not yet been authorized.

CAPITAL INCOME AND EXPENSE AUGUST 2010 – JULY 2011

ACCOUNT	AUG. 2010 BALANCE	FEB. 2011 BALANCE	DIFFERENCE
Realty Transfer Non-Reserve (Bank of Ocean City & PNC)	\$1,287,163	\$1,204,087	(\$83,076)
Realty Transfer Reserve (Bank of Ocean City & Bank of Delmarva)	\$316,592	\$318,168	+ \$1,576
Streets Reserve Account	\$0	\$16,375	+ \$16,375

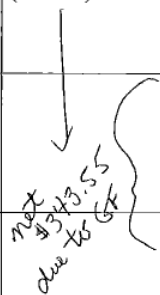
NON-RESERVE ACCOUNT ACTIVITY SUMMARY AUGUST 2010 – MARCH 2011

DATE	PROJECT	+	-	NOTES
Aug 2010	Park Acquisition	\$215,000		Reimbursement from State (via general fund) from prior fiscal year
November 2010	Dedicated Streets Fund		\$16,365	New account -- eq. 10% of taxes and interest, quarterly
January 2011	Public Safety Building		\$12,568.35	To GF for preliminary design by French & Ryan; Geotech survey by John Hynes Assoc.
January 2011	Streets Capital		\$18,129.19	To GF for Kercher Engineering serv
January 2011	Streets Capital		\$105,334.46	To GF for Jerrys Paving services

Fenwick Island Town Council

Minutes of the Special Meeting of April 5, 2011

PENDING ACTIVITY MARCH – JULY 2011

DATE	PROJECT	+	-	NOTES
March 2011	Dedicated Streets Fund		\$3,108 (done)	Transfer to a reserve fund
March 2011	Streets Capital	\$29,845 (received)		\$1,500 already in GF from Hocker pledge; \$28,345 due from State of Delaware
March 2011	Public Safety Building		\$23,837.03	Due to GF for expenses paid to French & Ryan for phase II of project (bid & management)
March 2011	Pedestrian Improvements		\$6,351.52	Due to GF for expenses paid to Landmark Engineering
April 2011	Pedestrian Improvements		\$2,650	Balance of fee for Landmark Engineering services
June 2011	Public Safety Building		\$7,940	Balance of fee for French & Ryan Services

BALANCE PROJECTION MARCH – JULY 2011

DESCRIPTION	INCOME	EXPENSE	BALANCE
Balance forward			\$1,204,087
Reimbursements	\$29,845		
Expenses		\$40,779	
Transfers to other reserve accounts		\$3,000	
Taxes (projected)	\$25,000		
Interest (projected)	\$9,500		
Balance (projected)			\$1,224,653

CURRENT FY CONSIDERATIONS

DESCRIPTION	INCOME	EXPENSE	BALANCE
Mobi-mat install		\$20,308 (net)	\$1,204,345